



CRM-M-58725-2024 (O&M) and two order cases 1
210 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1. CRM-M-58725-2024 (O&M)
Date of Decision: 01.07.2025
RAKESH KUMAR ...PETITIONER

Versus

STATE OF PUNJAB ...RESPONDENT

2. CRM-M-62771-2024 (O&M)
Date of Decision: 01.07.2025
AMIT THAPA ...PETITIONER

Versus

STATE OF PUNJAB ...RESPONDENT

3. CRM-M-61998-2024 (O&M)
Date of Decision: 01.07.2025
ABHISHEK ...PETITIONER

Versus

STATE OF PUNJAB ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manpreet Singh Dhaliwal, Mr. Rashmeet Singh and
Mr. Gourav Verma, Advocates for the petitioners.

Mr. Rishabh Singla, AAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. These three petitions are decided vide this common order as all the petitions are arising out of the same FIR. However, the facts are taken from CRM-M-58725-2024.

2. These are the first petitions filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioners in case bearing FIR No. 71 dated 17.09.2024 registered under Sections 111, 111(2), 111(3), 111(4) of Bhartiya Nyaya Sanhita, 2023 and under Sections 25(6), 25(7), 25(8) of Arms Act 1959 at Police Station Mehna District Moga.

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3. FIR(supra) was registered on the basis of ruqa sent by ASI Ashok Kumar, wherein it was claimed that on 17.09.2024, police party headed by ASI Ashok Kumar on Government Bolero bearing No. PB-65/BE-7442 in connection with patrolling and in search of suspected persons were going from CIA Staff, Moga Camp at Mehna towards area of Police Station Mehna. When police party was present at Bus Stand Mehna, he received secret information that many FIRs have been lodged against Sukhchain Singh @ Sukha son of Gurpiar Singh, resident of Janda Wala, Police Station Nehiawala, who is lodged in Faridkot Jail. He made available illegal arms and ammunitions to Karandeep Singh son of Tarsem Singh, resident of Hariewala, Police Station Sadar Mansa; Gurlal Singh son of Jagjit Singh, resident of Bhalaike, Police Station Jhunir; Abhishek(petitioner) son of Ashok Kumar son of Amarjit Singh, resident of Daddu Majra (Chanbdigarh); Rakesh Kumar(petitioner) son of Sua Ram, resident of Chopra, Police Station Pali (Rajasthan); and Amit Thapa (petitioner) son of Lachhman Thapa, resident of Mandi Gobindgarh, Police Station Mandi Gobindgarh. On that day, all of them while travelling in white coloured Ford Endeavour vehicle bearing No.CH-01/BJ-0321 are waiting for someone near Skyrig Resort, Main G.T. Road Moga-Ludhiana. If raid is conducted immediately, they can be apprehended with huge quantity of arms & ammunitions. Then ruqa was sent through PHG Kuldeep Singh, on the basis of which, FIR(supra) was registered.

4. Learned counsels for the petitioners *inter alia* contend that petitioners have been falsely implicated in the present case. They further contend that petitioners Amit and Abhishek are not involved in any other case, whereas petitioner-Rakesh Kumar has been nominated as accused in other cases after his arrest in the FIR(supra) on 19.03.2025. All the petitioners are behind the bars since 17.09.2024 and petitioner-Rakesh Kumar is involved in two more cases registered

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under the Prisons Act and one case of Arms At. Investigation of the case is complete and out of total 10 prosecution witnesses, none has been examined so far and two of the co-accused namely Gurlal and Karamjit have been granted the concession of default bail as the Investigating Officer has failed to present the final report within the stipulated period. Petitioner-Rakesh Kumar has been involved in two more cases only to show the apprehension of anti-social element.

5. Learned State counsel has filed the custody certificates of the petitioners and *per contra* opposes the prayer for grant of regular bail to the petitioners on the ground that country made weapons along with live cartridges have been recovered from the possession of all the petitioners. As such, their complicity is duly proved. However, he could not controvert the fact that petitioners Amit Thapa and Abhishek are first time offenders and they are not involved in any other case.

6. Having heard learned counsels for the parties and after perusing the record of the case, it transpires that all the petitioners are behind the bars for the last 09 months and 09 days and trial of the case would take sufficient long time to conclude as out of total 10 prosecution witnesses, none has been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioners.

7. A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. CBI**' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also



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would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

8. In view of the ratio of law laid down by Hon’ble Supreme Court in **Prabhakar Tiwari Vs. State of UP and Anr.** 2020(1) RCR (Criminal) 831 and **Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others** 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

9. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioners- Rakesh Kumar, Amit Thapa and Abhishek are ordered to be released on regular bail during pendency of the trial, on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

10. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

11. A photocopy of this order be placed on the files of other connected cases.

(HARPREET SINGH BRAR)
JUDGE

01.07.2025

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No